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ABSTRACT

The booklet describes the provisions and the significance of two laws which provide technology services or devices for persons with disabilities: Public Law 100-407, the Technology Related Assistance for Individuals with Disabilities Act of 1988; and Public Law 100-360, the Medicare Catastrophic Coverage Act. The first authorizes federal funds to states which show how they will plan and develop consumer-responsive comprehensive statewide programs of technology-related assistance for individuals with disabilities. Definitions of key terms such as "assistive technology device" are given, as is information on the process of applying for a state grant, and components of eligible state programs. Suggestions are given to families regarding the law's provisions in the areas of: assessing needs, providing devices and services, disseminating information, training and technical assistance, assisting support groups, setting up model service delivery systems, coordinating public awareness, and providing access to information. The second law provides services to Medicaid-eligible infants and children including speech pathology and audiology, psychological services, physical and occupational therapy, and medical counseling and services. Among suggestions to families are ensuring that state Medicaid plans include lists of eligible services. (DB)

Take advantage of the law.
Don't let the law take advantage of you!

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INTRODUCTION

Two new federal laws can help you and your family member who has a disability obtain technology services or devices. This brief memorandum describes them and their significance.

The Beach Center on Families and Disability, a rehabilitation research and training center at The University of Kansas, is funded by the National Institute of Disability and Rehabilitation Research, United States Department of Education, and the University to conduct research on families with members who have disabilities. A major focus of the Center's research is the families of children who are supported by technology.

P.L. 100-407: Technology-Related Assistance for Individuals with Disabilities Act of 1988

Introduction and Enactment

Senator Tom Harkin (D-IA) introduced his technology bill during the spring of 1988 and secured its passage only a few months later.

Purpose

This law authorizes federal funds to be distributed to states that successfully compete for them. To receive the funds, the states must show how they will plan and develop consumer-responsive comprehensive statewide programs of technology-related assistance for individuals with disabilities.

Definitions

"Individuals with disabilities" have a disability according to any federal or state laws. Thus, infants or toddlers (age from birth to three), a student (age five through 21), adults (from age 18), or elderly persons (there is no legal age cutoff, but most people are regarded as elderly somewhere between the ages of 60 and 70) are covered by the law if they have a disability under the Education of the Handicapped Act, Developmental Disabilities Assistance and Bill of Rights Act, Section 504, the Social Security Act (especially the provisions relating to Medicaid, Medicare, Social

Security Disability Insurance, or Supplemental Security Income), or other federal laws.

"Assistive technology device" is any item, piece of equipment, or system used to increase, maintain, or improve the functional capabilities of individuals with disabilities. The Senate Committee Report (Report 100-438, 100th Congress, 2nd Session, July 28, 1988) refers to such devices as computerized communication boards, automated readers, augmentative hearing devices, toys with adapted switches, modified household gadgets, wheelchairs, and computer-based devices that give enhanced images to people with visual impairments or that translate voice input into writing for people with hearing impairments.

"Assistive technology service" is that which directly assists an individual to select, acquire, or use a device. The Senate Committee report refers to training of individuals so they can use the devices and services to maintain the devices or adapt the equipment originally intended for use by people who do not have disabilities.

State Grants

A state must compete for a grant to develop its program. The development grant is for three years. A maximum of ten will be awarded in the first year (beginning in September, 1989), a maximum of twenty in the second (1990), and an unlimited number in the third (1991).

In addition, a state may compete for an additional two-year grant. The extension grant is available if the state can demonstrate significant progress in developing and implementing its state programs. The grant is available only after the state completes its three-year development grant.

The governor must designate the agency or individual responsible for carrying out the state's program. The state must demonstrate that individuals with disabilities and their families have been involved in developing its application and will continue to be involved in implementing the state's program.

The law is administered by the U. S. Department of Education, Office of Special Education and Rehabilitative Services, National Institute of Disability and Rehabilitation Research, Switzer Building, 400 Maryland Avenue S. W., Washington, D. C. 20202-2016 (attn. Betty Jo Berland, tel. 202-732-1139).

State Program

The law is very flexible and allows (but does not require) states to develop programs that carry out the following functions:

- identify individuals with disabilities and assess their needs for technology-related assistance
- identify and coordinate federal and state policies, resources, and services
- provide devices and services to

individuals, including payment to obtain the devices and services

- disseminate information about technology-related assistance with individuals and their families as target audiences

- provide training and technical assistance focusing on individuals and their families as trainees and TA recipients

- conduct public awareness programs

- assist statewide and community-based organizations, including parent groups, that provide assistive technology services

- support public and private partnerships and cooperation

- help ensure that qualified personnel are available

- compile and evaluate data about the statewide program

- establish procedures to involve individuals, their families, or their representatives in developing and implementing the statewide program

Also, the law authorizes (but does not require) a state to use federal money to:

- develop model service-delivery systems, which may include purchasing or paying for devices or services, using counselors to help families obtain devices and services, and involving individuals and their families if appropriate in decisions related to providing devices and services

- conduct statewide needs assessments
- help create or support groups that help individuals use devices and services
- support public awareness programs
- provide training and technical assistance for individuals and their families
- develop, operate, or expand public access to information
- enter into interstate agreements
- conduct other activities

Significance for Families

The law gives a state considerable leeway in deciding how to use the federal funds. That leeway creates an opportunity for family-oriented state and local organizations to affect state behavior. Especially important to families and their organizations are the following provisions, each of which is accompanied by suggestions for action:

- **assessing needs**— make sure you have a role in designing the needs assessment procedures and that you report on the number of individuals and families who can benefit from technology-related assistance
- **providing devices and services** — take steps to assure that the state will spend some of its federal dollars to buy devices and services

- **disseminating information** — make the state aware that information must reach families directly
- **training and technical assistance** — make sure the state plan includes parent-family groups in these activities
- **assisting support groups** — if any parent-family groups in the state provide services, be sure the state plans to help those groups continue and expand their work group that develops the state plan
- **setting up model service-delivery systems** — try to persuade the state to support "model systems" as means for getting federal funds spent on devices and services (these systems are "models" in the sense that they are effective in carrying out their purpose and can be copied exactly or with modifications in other communities or states)
- **coordinating public awareness** — do not let the state overlook the need to reach families and make them aware of the benefit of devices and services
- **training and technical assistance** — insist that parent-family groups and family members have high priority for training and TA
- **providing access to information** — be sure that state information systems and the information in them are readily available to families and that families' inquiries are not only logged but get a satisfactory response

Further Suggestions

Family organizations can help by developing special interest groups, thematic presentations at their conferences, special committees or task forces, or other information-sharing and watchdog activities related to assistive technology and the implementation of Senator Harkin's bill.

Federal regulations are being developed. A notice of proposed rulemaking was published in the Federal Register on April 12, 1989, and the period for public comments closed on May 12. Final regulations will be published soon, and funding will begin in September. Be on the lookout for the regulations and determine how families and their organizations may be involved in the ways suggested above, under "Significance for Families."

Keep NIDRR (the federal executive agency that administers the law) advised about the significance of the law to families and how states are carrying it out.

Stay in touch with Senator Tom Harkin, Chairman, and Bobby Silverstein, staff director, Senate Subcommittee on the Handicapped, 131 Hart Senate Office Building, Washington, D. C. 20510 (tel. 202-224-6265), to let them know how the states are carrying out the law and what states' actions mean for families.

Inquire of the Beach Center if you want specific information about the law and its history and intent, names of witnesses who testified at the two days of hearings held in April, and information about organizations that specialize in assistive technology. Rud Turnbull at the Beach Center was directly and intimately involved in the policy research, hearings, drafting of the bill, and development of the committee report, having been a Kennedy Foundation Public Policy Fellow at Senator Harkin's Subcommittee on the Handicapped in 1987-88.

P.L. 100-360: Medicare Catastrophic Act

Introduction

There have been many problems in securing related services for students who have health-connected disabilities. For example, students needing clear intermittent catheterization have been furnished that service only after long court battles, and it is now clear that CIC is a related service, although some local educational agencies still resist paying for it. By contrast, students needing other services that affect their health and ability to benefit from special education have lost court battles when they sought to have those services paid for by LEAs as related services. It is now clear that students' rights to certain technology supports are deemed not to be related services even though some LEAs voluntary pay for them. In short, students' access to certain services have been limited because of interpretations of the Education of the Handicapped Act or because LEAs have refused to pay for the services.

New Law and New Possibilities

Congress recognized these problems and addressed them by enacting the Medicare Catastrophic Coverage Act of 1988, P.L. 100-360.

Under that law, the general rule is that Federal Medicaid funds are available for the cost of health services that are furnished to students (age 3-21, under Part B) and infants and toddlers (birth to three, under Part H, P. L. 99-457).

There are three limits on the availability of Federal Medicaid funds. First, the state Medicaid plan must cover those services. Second, the services must be included in a student's IEP or an infant-toddler's IFSP. Third, the student or infant-toddler must be eligible for Medicaid.

If these three conditions are met, services that can be charged to the Medicaid fund include speech pathology and audiology, psychological services, physical and occupational therapy, and medical counseling and services for diagnostic and evaluation purposes.

Significance and Suggestions

Federal regulations have not been issued, and states' experiences with the new law are extremely preliminary. Nevertheless, it seems clear that family organizations will want to:

- advise families that there is a new law and new possibilities
- seek to amend the states' Medicaid plans to include the services listed above and others that affect a student's or infant-toddler's ability to benefit from special education or early intervention
- monitor state Medicaid agencies to ensure that they do not delete any such services from their existing plans
- be on the lookout for Federal Regulations (to be issued by Department of Health and Human Services, Health Care Financing Administration) and comment on them

- stay in contact with Andy Schneider, staff to Representative Henry Waxman (D-CA), since Mr. Schneider was instrumental in the development of this important amendment and Representative Waxman advocated for it in the Congress, and let them know how the state Medicaid and educational agencies are carrying out the law

- contact other disability organizations to determine what they are doing to help families and students get access to the Medicaid funds

- contact Rud Turnbull at the Beach Center if you want information about the law of related services

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